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Supreme Court, U.S.
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No. 95-951

In The

Supreme Court of the United States

October Term, 1995

LESLIE U. HARRIS, On Behalf Of Himself and All Others Similarly Situated,

Petitioner,

vs.

CHASE MANHATTAN BANK, N.A., and DOES 1 THROUGH 50,

Respondents.

On Petition For Writ Of Certiorari To The Supreme Court Of California

REPLY BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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Petitioner, Leslie U. Harris, by counsel and pursuant to Rule 15.6, hereby files her Reply Brief in Support of her Petition for a Writ of Certiorari.

On January 19, 1996, this Court granted certiorari to review the decision of the Supreme Court of California in a related case, *Smiley v. Citibank (South Dakota), N.A.*, 11 Cal. 4th 138, 44 Cal. Rptr. 2d 441, 900 P.2d 690 (1995), *review granted*, No. 95-860 (U.S. Jan. 19, 1996) ("*Smiley*"), to address whether the term "interest" in Section 85 of the National Bank Act ("NBA"), 12 U.S.C. §85 ("Section 85"), encompasses not only percentage-based periodic rates, but also flat late charges.

As Respondent, Chase Manhattan Bank, N.A. ("Chase"), correctly points out in its Brief in Support of Petition for a Writ of Certiorari ("Chase Brief"), this case – unlike *Smiley* or any of the other cases now pending before this Court – involves *both* Section 85 of the NBA *and* Section 27 of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. §1831d ("Section 27"). *See* Chase Brief at 3-4. This critical point is also emphasized in *amicus curiae* briefs filed by the American Bankers Association, the American Financial Services Association, the Consumer Bankers Association, MasterCard International, Inc. and VISA U.S.A., Inc. in support of the Petition for a Writ of Certiorari in this case.

Therefore, Petitioner respectfully submits that this Court should also grant certiorari in this case, and combine it for briefing and oral argument with *Smiley*, in order to resolve the conflicts in the federal and state courts, *see* Chase Brief at 3-4 (collecting cases), and to

address the proper construction of the term "interest" in both Section 85 of the NBA and Section 27 of the FDIA.

DATED: January 24, 1996

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